79-1634

Supreme Court, U. S.
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No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1979

ROBERT STARR, JAMES WARD, and CASEY JAMES WARD, a minor, by JAMES WARD as his guardian, and JOHN DOE A, B and C,
Petitioners,

v.

RICHARD NIXON, GERALD FORD, JAMES CARTER and WALTER MONDALE, individually and as present or former officials of the United States of America,
Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

CARL R. NUTZHORN
704 East Hopkins Street
Aspen, Colorado 81611

Counsel for petitioners

April 14, 1980

ERRATA SHEET OF TYPOGRAPHICAL CORRECTIONS

Kindly make the following corrections by interlineation in your copy:

1) Insert page numbers at bottom of pages 4, 6, 8 and 10

2) Page 4 line 6, "four-and-a-half"

3) Page 6 line 6, "~~under~~ under Amendment XII"

4) Page 12 line 2nd from bottom, "integrity ~~of~~ of the"

5) Page 16 line 19. "theretofore"

6) Page 17 line 13, "will ~~be~~ of course be exposed"

7) Page 19 line 19, after Baker insert '...an action at law, suit in equity, or other proper proceeding for redress', clearly contemplating wider remedies than the Butz and Davis actions for damages which might have required the damage specificity required by the Tenth Circuit opinion here sought to be reviewed.

8) Page 18 line 2, "withold federal taxes,"

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This writ should be granted because the Tenth Circuit Court of Appeals has decided petitioners have no standing to raise their stated argument on the merits that the U.S. Const. Art. II. Sec. 2 prohibition of pardon in cases of impeachment renders the pardon of former President Richard Nixon void, which is an important question of federal law which has not been, but should be, decided by the Supreme Court	20
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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1979

No. _____

ROBERT STARR, et al., Petitioners,

v.

RICHARD NIXON, et al., Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

Robert Starr, James Ward, and Casey James Ward, a minor, by James Ward as his guardian, and John Doe A, B, and C respectfully petition for a writ of certiorari to review the judgment and opinion of the Tenth Circuit Court of Appeals entered in this action on January 18, 1980.

OPINION BELOW

The opinion below here sought to be reviewed

is not published and appears in the Appendix hereto.

JURISDICTION

The Opinion was entered on December 13, 1979 and a timely motion to amend, petition for rehearing, and suggestion for rehearing en banc were denied on January 18, 1980. This Court's jurisdiction is invoked under 28 U.S.C. 1254(1). A previous petition for certiorari before judgment in the Tenth Circuit Court of Appeals was denied October 2, 1978 and the District Court record has been filed in this Court as No. 77-1707.

QUESTIONS PRESENTED

I. Petitioners now seek solely a declaratory judgment that the U.S. House Judiciary Committee's unanimous vote of articles of impeachment against former President Richard Nixon in a proceeding duly convened for that purpose and never officially terminated, initiated a "case of impeachment" within which his criminal pardon on September 8, 1974 is void as beyond the Presidential power under the prohibition of pardon by U.S. Const. Art. II. Sec. 2. Cl. 1. "in cases of impeachment".

II. Have petitioner-plaintiffs shown threatened injury-in-fact within the zone of interests to be protected by the U.S. Const. Art. II. Sec. 2 prohibition of pardon and the Fifth Amendment to have standing to sue to raise the above question?

CONSTITUTIONAL PROVISIONS INVOLVED

U.S. Const. Art. II. Sec. 2
U.S. Const., Amendment V.
U.S. Const., Amendment X.

STATUTORY PROVISIONS INVOLVED

28 U.S.C. 1331, 2201, 2202

STATEMENT OF THE CASE

I. The experience of history from Greco-Roman times and the intention of the founders in 1787 command plaintiffs' success in this action, because all prior constitutional republics have succumbed to the aggrandizement of executive power and the last result in the world the founders intended or the States' voters ratified was just what we now have - a President who will not be tried for crime during his term of office[1], made above the deterrent effect

1. Philip B. Kurland, Watergate and the Constitution, Univ. of Chicago Press, 1978, page 135-6.

of the criminal law by having his own selected Vice-President under Amendment XII election procedures who will surely pardon him when he leaves office in a case of impeachment.

The foundation of this claim lies in Western Civilization's four-abd-a-half century old anathema for assurance of forgiveness in advance of commission of the offense, as executive nullification of the criminal law - from Martin Luther's successful opposition to the abuse of papal indulgences in 1517 through the English Parliament's nullification of the 1662 and 1672 Indulgences of Charles II and its deposing of James II in 1688 for his Declaration of Indulgences[1a].

The Founders in 1787 were aware of this history and it is succinctly summarized in 1 Opinions of the U.S. Attorney General 342, to the effect that the President cannot pardon by anticipation, otherwise he would be vested with the power to dispense with the laws, his claim to which was the principal cause of James II's forced abdication.

The fulcrum of this argument is that the present

1a. See also F.W. Maitland, The Constitutional History of England, Cambridge University Press, 1950, P. 302-6.

Nixon pardon precedent is indistinguishable, in the sense of any Constitutional scheme, from the forbidden "dispensation" or indulgence, in that future Presidents now know they are assured of certain pardon for crimes committed while in office - making executive criminal activity an unduly trivial matter and mocking our Constitutional intention that no man be above the law.

Founder Edmund Randolph's reluctance to include treason within the President's pardon power, on the ground that the President himself might be guilty and that the traitors might be his own tools, was apparently overcome by James Wilson's assertion that, should the President be a party to the guilt, he could be impeached and prosecuted[2], presumably assuming that a President

2. Max Farrand, The Records of the Federal Convention of 1787, II. 627-8. The Farrand and Journal, Acts and Proceedings of the Convention (1819) pardon power references are collected in W.H. Humbert, The Pardoning Power of the President, American Council on Public Affairs, Wash. D.C. 1941, Chapter I., which appears in Hearings, U.S. House Committee on the Judiciary, Subcommittee on Criminal Justice; Pardon of Richard Nixon and Related Matters, Serial No. 60, 93rd Cong., 2nd Sess. at 265-271. That document (cont'd. next page)

who left office in a case of impeachment couldn't be pardoned because of the Art. II. Sec. 2. prohibition. Certainly James Wilson's so persuaded colleagues never imagined a future President guilty of treason could be legally pardoned by his own selected Vice-President under under Amendment XII election procedures, after leaving office in a case of impeachment[3].

To the extent that former President Nixon's departure from office has been considered as possibly within the Art. II. Sec. 2. prohibition, the latter has been assumed inapplicable either because "he wasn't impeached"[4], or because the pardon didn't purport to terminate the impeachment proceeding, i.e., the pardon wasn't offered in bar of impeachment[5]. However, no

2. (continued) ...also includes verbatim transcripts of the Philip Buchen and Gerald Ford press Conferences immediately following the pardon; it appears as Exhibit 4 of the District Court Record and those transcripts are subject to mandatory judicial notice under F.R. Evid. 201(b)(2) and 201(d).
3. But see Murphy v. Ford 390 F. Supp. 1372 (W.D. Mich. 1974) at 1373-4. (Recall that the Founders assumed from U.S. Const. Art. II. Sec. I. Cl. 3. that the Vice-President would be the candidate with the second most electoral votes - probably a rival oligarch.)
4. Kurland, Op. Cit. p. 104.
5. Murphy v. Ford 390 F. Supp. at 1373.

known legal usage of the term "a case" requires as a prerequisite that there be a conviction, or even that the relief sought be secured from the official decision maker. Surely it is absurd to have a Constitutional scheme in which the availability of pardon is within the control of the offender via his own voluntary aquiescence to the relief sought in an adversary proceeding. As for the contention that the Art. II. Sec. 2. prohibition is inapplicable because the pardon wasn't offered in bar of the impeachment proceeding, the Founders deliberately withdrew the words "his pardon may not be offered in bar of impeachment" for the present prohibition "in cases of impeachment"[6]. Whether James Wilson's above assurance and his colleagues' acceptance of it was consciously based upon that prior change may be unknown, but plaintiffs' reading of the change is the only one consistent with that acceptance.

The plain meaning of the other Constitutional

6. Farrand II., Op. Cit. 419, and Journal, Op. Cit. p. 295.

impeachment references is also consistent with this view. They are to the power of impeachment in Art. I. Sec. 2. Cl. 5.; to being convicted by the Senate in Art. I. Sec.3., Cl. 6.; and the Art. I. Sec. 3., Cl. 6. mention[7] of "cases of impeachment" as distinct from "the party convicted", all indicating the Founders intended "a case of impeachment" to exist independently of a vote of impeachment by the full House and either aquittal or conviction by the Senate.

Further, since American impeachments are civil removal-from-office proceedings only, and most probably don't require indictable criminal offense[8], there is no place for prohibition of criminal pardon "in cases of impeachment" unless it be pardon for criminal acts among the facts giving rise to the impeachment proceeding.

Finally, it can be seen that this view is the only one consistent with preservation of the functional integrity of the impeachment process itself, because any other result permits a future President to defeat impeachment inqueries by pardon of key witnesses before their testimony can be secured under conditional grants of immunity[9], noting that contempt for refusal to testify would be equally pardonable[10]. This problem confirms the functional necessity that the "cases of impeachment" where the Art. II. Sec. 2. prohibition applies must be deemed begun at least upon the vote of a duly constituted House Committee.

The result here urged doesn't mean there can be no clemency for a man in Richard Nixon's position, but that it must come only from a quasi plea-bargain with Congress (Congressional amnesties were confirmed in Brown v. Walker 161 U.S. 599 (1896)) or a federal Judge, in which instances it would presumably include conditions appropriate to the dignity and potential for harm of any man elected to the highest office in

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7. Note here also an inference from the Senate's "power to try impeachments" rather than "power to try cases of impeachment" that by the former phrase the Founders didn't think "a case of impeachment" came into existence only upon a vote of the full House.
8. Raoul Berger, Impeachment, The Constitutional Problems, Harvard Univ. Press/Bantam Ed., 1974 p. 59 et. seq.
9. Kurland, Op. Cit. at 32 confirms that John Dean and Jeb MaGruder so testified in connection with the Nixon impeachment case.
10. Ex parte Grossman 267 U.S. 87 (1925)

the land. A five year statute of limitations from this pardon's issue date expired September 9, 1979, and petitioners submit this action is not thereby mooted because it is certain that if our republic is to long endure there will be a recurrence of this challenged precedent which would be within the terms of a proper judgment in this case - see United States v. Trans-Missouri Freight Ass'n. 166 U.S. 290 (1897). Note also that defendants Nixon and Ford are not individually before the Court bucause, inter alia, under Stafford, U.S. Attorney, et al., v. Briggs, et al., 100 S. Ct. 774 (1980) process under 28 U.S.C. 1391(e) was served upon them outside Colorado.

In conclusion on the merits, plaintiffs maintain that the Constitution, from prior history, its plain meaning, the Founders' debates, and its need to preserve the functional integrity of the impeachment process, means just what they say it does. Beyond that, because the essence of Fifth Amendment liberty consists in preservation of the republic as one where the President is as nearly equally subject to the law as may be, we claim a Fifth Amendment right to enforcement of the specific prohibition of pardon in Art. II. Sec. 2. Beyond the above even if there were ambiguity this result must follow, upon the authority of the following quotation:

> "If by the statement that what the Constitution meant at the time of its adoption it means today, it is intended to say that the great clauses of the Constitution must be confined to the interpretation which the framers, with the conditions and outlook of their time, would have placed upon them, the statement carries its own refutation. It was to guard against such a narrow conception that Chief Justice Marshall uttered the memorable warning - 'We must never forget that it is a constitution we are expounding - a constitution intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs.' When we are dealing with the words of the Constitution, said this Court (in Missouri v. Holland -Ed.) 'We must realize that they have called into life a being the development of which could not have been forseen completely by the most gifted of its begetters...the case before us must be considered in the light of our whole experience, and not merely in the light of what was said a hundred years ago."
> Chief Justice Hughes in Home Building and Loan Asso. v. Blaisdell 290 U.S. 398 (1934) at 443 (italics underlined, citations omitted).

* * * * * *

II. Petitioner-plaintiffs have shown threatened injury-in-fact within the zone of interests to be protected by the U.S. Const. Art. II. Sec. 2. prohibition of pardon and the Fifth Amendment to have standing to sue to raise this question[11].

Standing to sue has been witheld by the Tenth Circuit Court of Appeals which felt itself restrained by this Court's decisions in Schlesinger v. Reservists

11. Some background on the present posture of this case: Although this petition seeks reversal of affirmance of the grant of a motion to dismiss for lack of standing, the record is more clean and complete than that alone implies. The record and this petition have addressed the substantive issues for examination here to confirm that there is a logical connection between the status plaintiffs assert and the claim they seek to have adjudicated as required by Flast v. Cohen 392 U.S. 83 (1968) at 102. The Philip Buchen and Gerald Ford press conference transcripts are before the Court evidencing, inter alia, Ford's admission that "impeachment in the House was a certainty and conviction in the Senate a high probability" (Exhibit 4, supra, at p. 95). Finally, by virtue of Admissions as to plaintiffs' factual allegations of status secured under F.R.C.P. Rule 36 and defeat of other aspects of defendants' "case or controversy", "political question" and "justiciability" (the relief sought is self executing) objections in the Tenth Circuit Court of Appeals defendants have there conceeded in response to a question from the bench that "if these plaintiffs have standing, the Court should decide this case". Although never raised below, any threshold objection that such a future pardon is itself too speculative is met that Presidential discretion is no substitute for the certain constitutional prohibition. The Presidency is a job for which men volunteer, and weighing the benefits and burdens, the functional integrity of of the constitutional scheme requires the certain prohibition.

Committee 418 U.S. 208 (1974)[12] and United States v. Richardson 418 U.S. 166 (1974)[13], on the ground that,

> "...plaintiffs' claims of standing do not distinguish them from citizens at large. They claim no specific past or present damage to themselves and allege no specific future damage, only apprehensions of possible detrimental effect on the body politic. Even accepting all of appellants' factual allegations as true...".

Submitted that by the term "no specific future damage" that language purports to create a new hurdle

12. A holding that U.S. Const. Art. I. Sec. 6. Cl. 2. requiring that "...no person holding any office under the United States, Shall be a member of either House during his continuance in Office" was unenforceable against the military Service Secretaries by a certified class representing all taxpayers and all citizens of the United States because by the class certification plaintiffs had taken the position that their interests and injury were shared by all members of the class, rendering them fatally "undifferentiated" and "generalized".

13. A holding that the taxpayer plaintiff had no standing to challenge the secrecy of the secret C.I.A. budget under U.S. Const. Art. I Sec. 9. Cl. 6. requiring that "...a regular Statement and Account of Receipts and Expenditures of all public money shall be published from time to time" because he did not claim under the taxing and spending power and the First (or any other) Amendment as had the Flast plaintiffs, or that the funds were being spent in violation of any specific constitutional limitation.

of specificity not present in "some direct injury, suffered or threatened" long established by Frothingham v. Mellon 292 U.S. 447 (1923) at 601, and that these plaintiffs' injuries are no less specific, onerous, or certain than those granted standing in Baker v. Carr 369 U.S. 186 (1962) or even Ass'n. of Data Processors v. Camp 397 U.S. 150 (1970).

Plaintiffs make five categories of standing claims, as follows:

First, and foremost, the essence of Fifth Amendment liberty consists in living in a republic where the president is as nearly equally subject to the law as may be. That means the Fifth Amendment guarantee of liberty goes beyond the rules by which plaintiffs can be put in jail to the ambience of the man in the street when he says, "This is a free country where no man is above the law". The loss of that ambience, absent standing to litigate this issue is a present injury-in-fact; that many share the loss does not deprive any one of them of standing to sue for its recovery United States v. SCRAP 412 U.S. 669 (1973), and on liberty to

travel as an ambience, see Kent v. Dulles 357 U.S. 116 (1958) at 127 and Aptheker v. Secretary of State 378 U.S. 500 (1964). Note also that the Art. II. Sec. 2. prohibition imposes an affirmative duty to plaintiffs upon the President to refrain from pardon "in cases of impeachment".

Second, plaintiff James Ward claims standing as a member of that subgroup of the body politic consisting of taxpayers and independent businessmen who are threatened with abuse by I.R.S. and federal regulatory agencies for their political opposition, or failure to make campaign contributions of sufficient size, to a president made above the law and thus denied the equal protection of the law, noting they are threatened with illegal acts, not the mere "chilling effect" of offensive but essentially legal surveillance as in Laird v. Tatum 408 U.S. 1 (1972). Would this allegation be more persuasive if he could show he is on a presidential "enemies list" or a member of the Socialist Workers Party? Need it be so made? Submitted that this subgroup's threatened

injury-in-fact is sufficiently established by membership in the defined group just as adequately as that of voters in underrepresented Tennessee counties in Baker (see 369 U.S. at 703-5). Like the Baker and Flast claimants of Fourteenth and First Amendment rights, respectively, to enforcement of another specific limitation in the Constitution, James Ward claims a Fifth Amendment right to enforcement of the Art. II. Sec. 2 prohibition, thus distinguishing himself from the Schlesinger and Richardson plaintiffs, neither of which made any Bill of Rights or Civil Rights Amendment claim to enforcement of the limitation they sought to raise. Lastly, on the Declaratory Judgment Act, 28 U.S.C. 2201, 2202 legislative intent to reach issues not therefore justiciable for lack of immediate injury, see the Aetna Life Insurance Co. v. Haworth 300 U.S. 27 (1937) line of cases as relied upon in Flast, and the materials collected in Hart and Wechsler, The Federal Courts and Federal Jurisdiction, 2nd Ed. 1973 at P. 126-149.

Third, even though self help is ultimately available, the threatened need to resort to it in default of judicial relief can be a present injury-in-fact, polluting the mind as much as the litter in SCRAP pollutes the visual environment. Plaintiff Robert Starr, as an expert rifle marksman, having with John Doe A, B and C the requisite skills and moral courage required for exercise of the right of rebellion, by assassination if need be, reserved by Amendment X to them from the Declaration of Independence, claim standing to litigate for relief from that mental pollution. When forced to exercise that right of rebellion they will be of course be exposed to extreme physical hazard. Although they acknowledge that such allegations do not offer a workable judicial tool (suggested they lend specificity to a free man's claim of Fifth Amendment liberty) these plaintiffs softly insist their present and threatened future injury-in-fact is not shared by the entire body politic. Further, this group's reduction in size from that of James Ward reduces the remoteness and increases the onorousness of this group's injury[14].

14. Examination of the Complaint and Tenth Circuit Second Supplemental Authority will confirm these allegations do not constitute a statutory threat to anyone, nor would they be an assault in anyone's presence.

Fourth, Casey James Ward, a minor citizen born January 31, 1976, cannot vote, withold federal taxes. join Robert Starr's subgroup, or emmigrate to remedy this breach of the constitutional social contract of his inheritance, and he has no remedy whatsoever, other than the Court. He claims standing and relief under Bell v. Hood 326 U.S. 678 (1946) and the Fifth Amendment cases Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics 403 U.S. 388 (1971), Butz v. Ecomonu 98 S.Ct 2894 (1978) and Davis v. Passman 99 S.Ct 2264 (1979). Counsel is unaware of any tonscious judicial weighing of "remoteness" against ultimate certainty of threatened injury, but in Casey James Ward's time perspective, the threatened injury is as certain of occurrence as history from Greco-Roman times of Julius Caesar and Brutus through Benjamin Franklin's 1787 convention remarks on the necessity of assassination absent workable impeachment, to the year 2050 A.D. Recalling that the Baker plaintiffs won their relief under the Civil Rights Acts which seem available only against State action,

plaintiffs point out that Butz, supra has apparently given plaintiffs actions against federal officials under the Fifth Amendment alone comparable to those under the Civil Rights Acts against State officials, stating,

> "To create a system in which the Bill of Rights monitors more closely the conduct of State officials than it does that of federal officials is to stand the constitutional design on its head." 98 S.Ct. 2894.

To the extent that Butz and Davis carry standing to sue along with the "Civil Rights Act equivalent" cause of action to sue for damages (and beyond, if need be) against federal officials under the Fifth Amendment alone, plaintiffs claim that standing - as the fruits of their standing allegation struggle in this action - putting these plaintiffs here now on a standing footing as firm as that of plaintiffs in Baker.

Fifth and last, plaintiffs Starr and Ward claim as voters that their votes have been debased through loss of their elected representatives' power to discipline a president by impeachment and thereby maintain him under the deterrent effect of the

criminal law. Smiley v. Holm 286 U.S. 355 (1931) and Leser v. Garnett 258 U.S. 355 (1922).

REASONS FOR GRANTING THE WRIT

This Writ should be granted because the Tenth Circuit Court of Appeals has decided an important question of federal law which has not been, but should be, decided by the Supreme Court, as provided by Supreme Court Rule 19(1)(b).

CONCLUSION

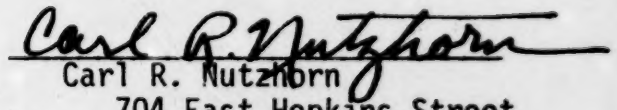
Petitioners conclude with two quotations of authority by this Court, in 1978 and 1821, respectively.

> "No man in the country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All officers of the government from the highest to the lowest are creatures of the law, and are bound to obey it. United States v. Lee 106 U.S. 196 (1882) at 220, Marbury v. Madison 2 L.Ed. 60 (1803), Scheuer v. Rhodes 416 U.S. 232 (1974) at 239-40" (citations shortened -Ed.) Mr. Justice White in Butz v. Ecomonu 98 S.Ct 2894 (1978) at 2911,

and,

> "It is most true that this Court will not take jurisdiction if it should not: but it is equally true, that it must take jurisdiction, if it should. The judiciary cannot, as the legislature may, avoid a measure, because it approaches the constitution. * * * We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution." Chief Justice Marshall in Cohens v. Virginia 6 Wheat 265, 404 (U.S. 1821).

Respectfully submitted,



Carl R. Nutzhorn
704 East Hopkins Street
Aspen, Colorado 81611

Counsel for petitioners

April 14, 1980

APPENDIX

Opinion

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

ROBERT STARR, et al.,
Plaintiffs - Appellants,

v. No. 78-1395

RICHARD NIXON, er al.,
Defendants - Appellees.

Appeal from the United States District Court
for the District of Colorado
(D.C. No. 77-f-1078)

Before BARRETT, McKAY and LOGAN, Circuit Judges.

PER CURIAM.

This action is an attempt to challenge the pardon granted to former President Richard M. Nixon by then President Gerald R. Ford. It seeks declaratory, mandatory and damage relief. When reduced to their salient characteristics, plaintiffs' claims of standing do not distinguish them from citizens at large. They claim no specific past or present damage to themselves and allege no specific future damage, only apprehensions of possible detrimental effect on the body politic. Even accepting all of appellants' factual allegations as true, their claims do not satisfy the standing requirements of Schlesinger v. Reservists Committee, 418 U.S. 208 (1974), and United States v. Richardson, 418 U.S. 166 (1974). The trial court's order granting the defendants' motion to dismiss the complaint for lack of standing is hereby affirmed.

NOVEMBER TERM - January 18, 1980

Before Honorable Oliver Seth, Chief Judge, and the Honorable William J. Holloway, Jr., Robert H. McWilliams, James E. Barrett, William E. Doyle, Monroe G. McKay, James K. Logan and Stephanie K. Seymour, Circuit Judges.

ROBERT STARR, et al.,
Plaintiffs - Appellants,

v. No. 78-1395

RICHARD NIXON, et al.,
Defendants - Appellees.

This matter comes on for consideration of appellees' motion to strike appellants' supplemental authority, appellants' motion to to amend judgment, and appellants' petition for rehearing with suggestion for rehearing en banc, filed in the captioned case.

Upon consideration whereof, it is the order of the court that:

1. The appellees' motion to strike appellants' supplemental authority is denied.

2. Appellants' motion to amend judgment is denied.

3. The petition for rehearing is denied by Circuit Judges Barrett, McKay, and Logan to whom the case was argued and submitted and no member of the panel nor judge in regular active service on the court having requested that the Court be polled on rehearing en banc, Rule 35, Federal Rules of Appellate Procedure, the suggestion for rehearing en banc is denied

/s/ Howard K. Phillips

HOWARD K. PHILLIPS, Clerk

U.S. Const. Art. II. Cl. 1

Powers of president. (1) The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States. He may require the opinion in writing of the principal officer of each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant repreives and pardons for offenses against the United States, except in cases of impeachment.